

REMARKS

Reconsideration of this application and the rejection of the claims is respectfully requested. Applicants have attempted to address every objection and ground for rejection in the Office Action dated August 27, 2008 (Paper No. 20080820) and believe the application is now in condition for allowance. The claims have been amended to more clearly describe the present invention.

Applicants acknowledge with thanks withdrawal of rejections of record in the Office Action mailed January 2, 2008. Claims 41-57, 62 and 64 are pending in this application.

The specification stands objected to as failing to provide proper antecedent basis for the claimed subject matter. Cited phrases to which the Examiner objects have been amended. Claims 41, 62 and 64 have been amended to more clearly claim Applicant's invention. See page 4, lines 1, 24 and 25; page 5, line 5; page 6, lines 13-14; page 8, line 26; page 9, lines 13-27; page 10, lines 10-21; page 12, lines 18-29, and Figure 3 (showing the lower member on the underside when the upper member provides the upper surface and the core extending below the upper surface provided by the upper member) show the features of claim 41. Support for the amendments of claim 62 are found on page 8, lines 9-11 and 26; page 9, lines 12-27; page 10, lines 4-14; page 12, lines 26-29; Figure 1 (showing the well in the upper surface) and Figure 3 (showing the lower member on the underside when the upper member provides the upper surface and the core extending below the upper surface provided

by the upper member). Claim 64 features are shown on page 6, lines 13-14; page 8, lines 9-11, 18-26; page 9, lines 12-18, 20, 27; page 10, lines 4-5; page 11, lines 1-4; page 12, lines 18-19, 23-29; Figure 1 (showing the well on the upper surface) and Figure 3 (showing the core provided at the side wall, upper wall and well regions).

Claims 41-57, 62 and 64 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite and for failing to comply with the written description. Applicants respectfully submit that the amendments and comments contained herein overcome these rejections.

The Examiner states that the disclosure does not support a plurality of holes. A “means for releasing air” has replaced the plural term “holes”. This feature is clearly described on page 12, lines 23-29 and Applicant contends that this passage also supports “holes”. Further, one of ordinary skill in the art would understand from this description that holes through which the air escapes are formed by cutting off the pips. On page 6, lines 13-15, “holes” (plural) in the lower member are provided to release air. “Upper member of sheet plastics material and a lower member of sheet plastics material” has been amended to read “upper and lower members being formed from sheet plastics material” as supported page 9, lines 18 and 27. Applicant believes this wording no longer carries the implication that the “sheet plastics material” is unchanged.

The Examiner argues that the core is filler and is not load bearing. This is contradicted by the specification on page 10. Lines 4-5 state that “inner core 8 is made of

polymer composite filler and provides strength and rigidity for the tray.” Further, lines 10 and 14-16 state that “inner core 8 has regions of different thickness” and that “these thicker sections provide extra rigidity and strength for the tray. In particular, the tray does not flex when stood on by a person”. The Office Action further states that the core is similar to paint.

As recited above, the specification states that the core is a polymer composite, such as a resin-stone mix of limestone, calcium carbonate, resin and catalyst. This combination would not produce a composition similar to paint. The resin-stone mix is poured into the upper member 7 and sandwiched between the upper member 7 and lower member 9 on page 11 at lines 7-12. Pressure is applied to force the stone-resin mix to flow to all accessible regions of the cavity between the upper member 7 and the lower member 9 on page 11, lines 28-29. It is therefore clear that the resin-stone mix core fills the entire cavity between the upper member 7 and the lower member 9 and the core hardens (page 6, lines 6-7) to provide strength and rigidity for the tray so that it does not flex when stood upon. A hardened resin-stone plastic providing strength to a tray that is stood on would certainly support that tray.

Claim 46 stands rejected under 35 U.S.C. § 112, second paragraph as being indefinite. The phrase “said underside layer” is rejected as referring to several potential layers. Amendments to this claim more specifically define the layer intended to be referenced.

Claims 41-42, 44-57, 62 and 64 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Altman in U.S. Patent No. 4,067,071. Applicants respectfully traverse this rejection.

Applicant's claims are totally different than Altman. Altman starts from an existing bath which is already constructed to be load bearing and provides a flexible liner to cover the upper surface of the bath when this requires refurbishment. The liner rests on the bottom surface of the bath so that, when a person gets into the bath, the weight is transferred directly from the liner to the bath. The liner is one size to fit all baths and Altman provides a fluent filler material to fill any gaps between the liner and the side wall of the bath. The weight of the water in the bath acts on the bottom surface and the sidewalls but the weight of a person in the bath acts on the bottom surface.

It is an essential feature of Altman to employ a load bearing member (the existing bath) as the lower member in the refurbished product. There is absolutely no teaching in Altman to provide a core that is sandwiched between upper and lower members to provide strength and rigidity so that the product does not flex when stood on.

The amended claims are directed to a shower tray. Unlike a bath, water collected in the shower tray is discharged to waste continuously and the shower tray is not subjected to the weight of a large volume of water. The main load experienced by a shower tray is the weight of a person standing in the well of the shower tray. Starting from Altman, the person skilled in the art would design a shower tray in which the lower member is load

bearing and the upper member rests directly on the bottom surface of the well in the load bearing lower member. The present invention employs a completely different approach by sandwiching the load bearing member between upper and lower members. This allows the thickness of the load bearing member to be tailored to the load bearing requirements of different areas of the shower tray so that the strength to weight ratio can be optimized for ease of handling and installation. The Altman liner is provided for a totally different purpose and there is no teaching in Altman to lead a skilled person to produce a shower tray as claimed. The examiner is interpreting Altman with the benefit of hindsight and disregarding essential features of Altman - the lower member (bath) is load bearing and the upper member (liner) rests directly on the bottom surface of the lower member - to arrive at the claimed invention.

In the amended claims, claim 41 recites:

the core provides strength and rigidity to the shower tray (contrast Altman where the lower member (bath) provides strength and rigidity);

the core is sandwiched between the upper and lower members to support the upper surface of the shower tray so that it does not flex when stood on (contrast Altman where the filler is provided in the sidewall regions and the upper member (liner) rests directly on the bottom surface of the lower member (bath) in the region where a person stands in the well); and

the lower member is provided with means for releasing air on the underside of the shower tray (contrast Altman where the lower member (bath) is not designed to allow air to escape - obvious as water would be able to leak when the original, unfurnished bath is used).

Claim 62 recites:

the core provides strength and rigidity to the shower tray (contrast Altman where the lower member (bath) provides strength and rigidity);

the core is sandwiched between the upper and lower members and extends below the floor (contrast Altman where the upper member (liner) rests directly on the bottom surface (floor) of the lower member); and

the lower member is provided with holes on the underside of the shower tray (contrast Altman where the lower member (bath) is designed to contain water).

Claim 64 recites:

the core provides strength and rigidity to the shower tray (contrast Altman where the lower member (bath) provides strength and rigidity);

the core is sandwiched between the upper and lower members and extends throughout cavity defined between the upper and lower members in the region of an outer side wall, upper wall and well (contrast Altman where the filler is provided in the side wall

regions of the lower member (original bath), the upper member (liner) rests directly on the bottom surface of the lower member and shims are inserted in any gaps between the members at the rim); and

the lower member is provided with means for releasing air on the underside of the shower tray (contrast Altman where the lower member (bath) is not designed to allow air to escape - obvious as water would be able to leak when the original, unfurnished bath is used).

Modification of Altman as suggested by the Examiner to support the entire upper member with the core in order to provide a strong, durable structure would change the principle of operation of that reference. Altman teaches specifically that the upper member must contact the lower member to bear the weight of the bather and the water. Therefore, no *prima facie* case of obviousness has been established because there is no motivation to modify the reference as suggested.

Claim 43 stands rejected as being unpatentable over Altman in view of Swanson in U.S. Patent No. 4,414,385. Swanson is relied upon to disclose a dicyclopentadiene resin for the purpose of resisting chemical attack. Applicants suggest that there is no motivation to combine the references in this manner. The resin-stone mix of Applicants' claims is enclosed in a cavity enclosed in a shell. In this position, it is not subjected to chemical attack. Therefore, according to the teachings of Altman and Swanson, nothing would be gained by the use of the polymer resin of Swanson in the product of

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Altman. Further, arguments submitted above with respect to the deficiencies of Altman are reasserted here. Thus, claim 43 should be found to be patentable and it is respectfully submitted that the rejection be withdrawn.

It is submitted the amended claims are novel and inventive over Altman. Applicants submit that in view of the above-identified amendments and remarks, the claims in their present form are patentably distinct over the art of record. Allowance of the rejected claims is respectfully requested. Should the Examiner discover there are remaining issues which may be resolved by a telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

/carole a. mickelson/

By

Carole A Mickelson
Registration .No. 30,778

Customer No. 24978
February 27, 2009
300 S. Wacker Drive – Suite 2500
Chicago, Illinois 60606-6501
Telephone: (312) 360-0080
Facsimile: (312) 360-9315